

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to disinterment

The Board of Mortuary Science hereby amends Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 156 and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 144C, 147, 156 and 272C.

Purpose and Summary

This amendment makes rule 645—100.9(144) consistent with the rules and policies of the Iowa Department of Public Health that are related to the purpose of issuing disinterment permits in accordance with Iowa Code section 144.34.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 13, 2019, as **ARC 4306C**, and a public hearing was held on March 5, 2019. No public comments were received regarding that Notice. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4656C**. In the Amended Notice, the Board proposed striking the words “or cremated remains” from subrule 100.9(6). This was in response to a recent determination by the Bureau of Health Statistics, Vital Records, that cremation is a final disposition that occurs at the crematory prior to interment of cremated remains; therefore, no permit is required for disinterment of cremated remains. The Board’s opinion was that it would be unfair to set a rule requirement for funeral directors that could serve as grounds for discipline for failing to obtain a disinterment permit when, in the case of cremated remains, no permit needs to be executed.

A public hearing about the Amended Notice was held on October 1, 2019, at 9 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Public comment was received from the Iowa Funeral Directors Association opposing the amendment and asking the Board to withdraw the proposed rule change. The Association also requested that the Board meet with other regulatory agencies about the topic of disinterment to develop a consistent message among the agencies.

No changes from the Amended Notice of Intended Action have been made.

Adoption of Rule Making

This rule making was adopted by the Board on December 5, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 5, 2020.

The following rule-making action is adopted:

Amend subrule 100.9(6) as follows:

100.9(6) Disinterment permits shall be required for any relocation of a human remains ~~or cremated remains~~ from the original site of interment or entombment if the purpose is for autopsy or reburial.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/1/20.